

Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554

DOCKET FILE COPY ORIGINAL

In re )  
 )  
CHAMELEON RADIO CORP. )  
 )  
Order to Show Cause Why the )  
License of Station KFCC (AM), )  
Bay City, Texas Should Not Be )  
Revoked )

FCC MAIL ROOM

MAY - 9 1997

RECEIVED

Date: May 8, 1997

REPLY OF CHAMELEON RADIO CORPORATION  
TO MASS MEDIA BUREAU'S COMMENTS ON  
MOTION FOR SANCTIONS AGAINST BUREAU

1. Chameleon Radio Corporation ("Chameleon") hereby presents its reply to Mass Media Bureau's Comments filed with the Court on Thursday, May 8, 1997 commenting on Chameleon's Motion For Sanctions Against the Bureau filed on May 6, 1997.

Discussion

2. On May 6, 1997, Chameleon, through its president Don Werlinger, filed a motion with the Court seeking sanctions against the Bureau as a result of the Bureau's failure to provide Chameleon with a copy of the Bureau's Proposed Findings of Fact and Conclusions of Law ("PFCs") as directed by the Presiding Judge.

3. On May 6, 1997, Chameleon's president, Don Werlinger received a call from Bureau Counsel Alan Aronowitz who stated the Bureau had mailed to Chameleon via first class mail a copy of the Bureau's PFCs on Friday, May 2, 1997. Mr. Aronowitz told Mr. Werlinger the Bureau's PFCs had been mailed per requirement on May 2nd and that the Bureau was under no obligation to present the PFCs to Chameleon on May 2nd, only to have mailed them. He also stated that if Werlinger did not receive the PFCs by Wednesday, that he (Aronowitz) would personally see to it that a copy was delivered.

4. On Wednesday, May 7, 1997, Chameleon received via telecopier commencing at 4:04 pm EST,<sup>1</sup> a copy of the Bureau's PFCs. However, as stated in the attached

<sup>1</sup> See copy of telecopier cover sheet attached as Exhibit: 1

declaration of Dan Coccozza,<sup>2</sup> an individual who shares offices with Chameleon and is responsible for receiving and sorting both incoming courier packages and first class mail in the suite of offices which house Chameleon, no copy of the PFCs has as yet arrived from the Bureau.

5. In its comments, the Bureau states it filed its PFCs on May 2, 1997, "as directed by the Presiding Judge," (Bureau's Motion at Paragraph 2.). However, the court's attention is called to the transcript of the February 24, 1997 hearing in which the Presiding Judge was very specific in his directions regarding the matter when he directed, "I am going to require the findings *reach* (emphasis added) the parties by April 11th, whether it's mailed or, you know." The presiding judge also stated, "the parties should have it on April 11." (Transcript, Page: 215, lines 5-6 and 8-9).

6. As the Court is aware, Chameleon sought and received two extensions of time in which to file its Proposed Findings of Fact and Conclusions of Law. The first extension totaling fourteen days and the second totaling seven days effectively altered the Presiding Judge's directive at the end of the hearing on February 24, 1997 to be May 2, 1997 instead of April 11, 1997.

#### Conclusions

7. To date, Chameleon has yet to receive a copy of the Bureau's PFCs other than by telecopier.

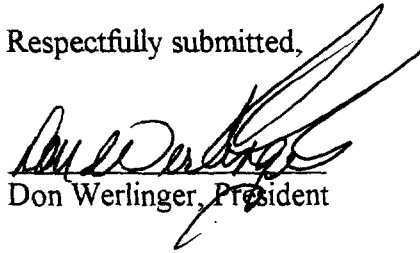
8. Even if it did mail its PFCs on May 2, 1997 as it states, the Bureau did not follow the Presiding Judge's instructions as it claims in its comments. In so doing, the Bureau ignored the specific directions of the Presiding Judge in the instant case, establishing one set of rules for itself while the licensee it has accused of ignoring the Commission's rules was expected to and did comply with the court's directive. The double standard is clearly apparent.

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<sup>2</sup> See attached Exhibit: 2, the declaration of Dan Coccozza.

9. As a result, Chameleon restates its request of the Court to extend the deadline for reply comments in the instant case and to impose against the Bureau whatever sanctions it deems necessary and appropriate under the circumstances.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Don Werlinger", is written over the typed name.

Don Werlinger, President

Chameleon Radio Corporation  
10865 Rockley Road  
Houston, Texas 77099  
(281) 575-1270 Telephone  
(281) 879-1104 Telecopier

FACSIMILE COVER SHEET  
FEDERAL COMMUNICATIONS COMMISSION  
COMPLAINTS & POLITICAL PROGRAMMING BRANCH  
MASS MEDIA BUREAU  
2025 M STREET, NW  
WASHINGTON, DC 20554

DATE: 5/7 TIME: \_\_\_\_\_

FROM: NAME: Aronowitz

TELEPHONE: 202 418-1430

FAX NUMBER: (202) 418-1124

TO: NAME: Don Werlunger

ORGANIZATION: KFCC

TELEPHONE: 527-1270

FAX NUMBER: (281) 879-1104

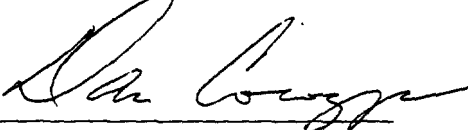
THIS COVER SHEET IS PAGE 1 OF 35 PAGES.

COMMENTS/INSTRUCTIONS: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

DECLARATION

Dan Cocozza declares under penalty of perjury that the following statements are true and correct of his best knowledge and belief:

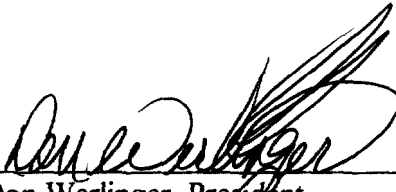
1. My name is Dan Cocozza.
2. It is my responsibility on a daily basis to receive and sort courier packages and mail delivered by the U.S. Postal Service and addressed to Chameleon Radio Corporation at 10865 Rockley Road, Houston, Texas 77099.
3. Between Friday, May 2, 1997 and 4:00 pm CDT, Thursday, May 8, 1997, no package bearing the address Federal Communications Commission and addressed to Chameleon Radio Corporation has been delivered to the above address.

  
\_\_\_\_\_  
Dan Cocozza

May 8, 1997

CERTIFICATE OF SERVICE

I certify that a true copy of the foregoing REPLY TO MASS MEDIA BUREAU'S COMMENTS ON MOTION FOR SANCTIONS AGAINST BUREAU FOR FAILURE TO PROVIDE CHAMELEON WITH PROPOSED FINDINGS OF FACT AND CONCLUSIONS OF LAW has on this 8th day of May, 1997, has been delivered via telecopier and via Federal Express Courier to the offices of Alan E. Aronowitz, Esq., Suite 8210, 2025 M Street, N.W., Washington D.C. 20554 and via telecopier and via Federal Express Courier to the offices of the Honorable Joseph Chachkin, Administrative Law Judge, Suite 226, 2000 L Street, N.W., Washington D.C. 20554. An additional copy of the above has been sent via first class mail to the offices of the Secretary, Federal Communications Commission, Second Floor, 1919 M Street, N.W., Washington, D.C. 20554.

  
Don Werlinger, President  
Chameleon Radio Corporation